IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 259 OF 2006

IN

WRIT PETITION NO. 209 OF 2005

SANJAY FATTU DESAI, TALEIGAO-GOA ....Applicant

Versus

THE GENERAL MANAGER, BSNL-TELECOM, REP. BY ITS SDE-LEGAL SHRI S. A. KRISHNA ....Respondent

Mr. A.V. Nigalye, Advocate for the petitioner.

Mr. P.P. Singh, Advocate for the respondent.

Coram:- DR. S. RADHAKRISHNAN, J.

Date:- 4th October, 2006

P.C.

Heard learned Counsel for the applicant and the learned Counsel for the respondent. The respondent being the original petitioner in the main petition, being the employer has deposited a sum of Rs.1,17,912/- in this Court on 28.9.2006 towards back wages payable to the Applicant, pursuant to the award passed by the Central Government Industrial Tribunal on 27.2.2004. In the said award, the Industrial Court has directed that the workman services were illegally terminated with effect from 31.12.2001 and the employer was directed to reinstate the workman in service with effect from 1.1.2002. The employer was also directed to pay the back wages from 1.1.2002. The original petitioner employer states that the petitioner employer is not willing to take back the respondent in service. The respondent workman has already filed an affidavit alongwith this application categorically stating that he has not

been employed in any established during the aforesaid period. Having regard to section 17B of the Industrial Disputes Act, 1947, and also that the employer is unable to bring forth any material to show that the workman was employed during the aforesaid period. The employee is entitled to pay back the wages. Hence the Misc. Civil Application filed by the respondent workman is made absolute whereby the employee is entitled to withdraw the aforesaid amount deposited. The original Petitioner employer shall keep on depositing in this Court every month the wages payable to the respondent workman and the respondent workman shall be entitled to withdraw the same. Having regard to the facts and circumstances of the case, hearing of the petition expedited. Liberty to the parties to apply for a fixed date of hearing.

DR. S. RADHAKRISHNAN, J.

ef.